

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 386 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

MORVI TIME CO

Appearance:

MR PRANAV G DESAI WITH MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 25/01/2000

ORAL JUDGEMENT (Per J.N.Bhatt, J.)

The Income Tax Appellate Tribunal, Ahmedabad, Bench 'B'

has referred the following question, for the relevant assessment year 1980-84:

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that under the provisions of section 30 read with sec.48 of the Partnership Act, 1932, the minors who were admitted to the benefits of partnership were entitled to a share in the goodwill, quota rights, selling agency rights and other business connections?"

It can be, very well, seen from the statements of the case drawn by the Tribunal that Jayesh B. Mistry and Sangita Mistry all of whom were minors when admitted to the benefits of partnership firm, who, retired upon dissolution dated 7.11.1975 and a payment of Rs.72,000/- was claimed for the assessment year 1980-81 which was disallowed by the ITO, which as such, was reversed by the CIT by allowing the appeal and the Tribunal upheld the order of CIT, but at the instance of the Revenue, the aforesaid question has been referred for our opinion.

Learned counsel for the Revenue Mr Bhatt, candidly, drew our attention to a decision of this Court rendered in Income Tax Reference No.52/84, wherein, similar question between the same parties in respect of assessment year 1977-78 has been answered against the Revenue and in favour of the assessee and after having examined the merits of the said decision and the facts of the present case, we find no any material to make a departure from the earlier view. Therefore, in our opinion, the facts of the present reference are covered by the earlier decision.

With the result, the reference is required to be disposed of accordingly. Consequently, the question referred to us is answered against the Revenue and in favour of the assessee. The reference stands disposed of accordingly, with no order as to costs.

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(vjn)